

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF RHODE ISLAND

COMPLAINT ON APPEAL FROM FINAL AGENCY DECISION

PARTIES

1. Eslam Eltaweeel ("Eslam") is a resident of Cranston, Rhode Island and is the Owner shareholder of AEW Market, Inc. a Rhode Island Corporation.
2. AEW Market, Inc. ("AEW"), is a corporation in good standing duly registered with the Rhode Island Secretary of State's Office and conducts business in Rhode Island with its business address of 385 Westminster Street, Suite 1, Providence, Rhode Island 02903.
3. The United States Department of Agriculture, Food and Service Office (USDA) is the Federal Administrative Agency in charge of overseeing and enforcing the Supplemental Nutrition Assistance Program (SNAP) and operates this program within the State of Rhode Island having its field office at 135 High Street Rm. 370 William Cotter Federal Building Hartford CT 06103-1111.

JURISDICTION

4. This Court has Jurisdiction over this complaint pursuant to *7 U.S.C. § 2023 (a)* and *§ 279.7 of 7 C.F.R.* as this is an appeal from a Final Agency Decision of the U.S. Department of Agriculture and Food and Nutrition Service (FAD).
5. That the Defendant in this Complaint is The United States of America through is Department of Agriculture. Therefore this Jurisdiction is proper.

FACTS OF CASE

6. On April 25, 2014, AEW received written correspondence from the USDA alleging that AEW was in violation of the terms ad conditions of the SNAP regulations, *7 CFR §270-§282*, based on EBT benefit transactions that “establish clear and repetitive patterns of unusual, irregular, and inexplicable SNAP activity for its type of firm”. See Final Agency Decision (“FAD”). Further the FAD advised AEW that the penalty for violating this section is a permanent disqualification from the SNAP program. AEW immediately responded denying the charges.
7. On July 3, 2014, AEW received a letter informing it that it had been permanently disqualified from SNAP retailer operations in accordance with *7CFR§ 278.6(e)(1)* for trafficking and soon thereafter AEW was permanently disqualified from the SNAP program.
8. On July 14th, 2014 AEW appealed the Second Agency Decision and on August 13th, 2014, AEW produced additional evidence to contradict USDA's decision.
9. However, on August 15, 2014, the USDA issued its Final Agency Decision permanently disqualifying AEW and Eslam from the SNAP program. Eslam received his Final Agency Decision on August 18th, 2014.

10. As the result of the August 15, 2014 Final Agency Decision, AEW filed a Complaint in the Federal District Court- Rhode Island District seeking *de novo* relief.

COUNT I

(*DE NOVO REVIEW*)

11. That AEW incorporates by reference the allegations contained in paragraphs 1 through 10 of this Complaint.

12. AEW seeks a *de novo* review of the USDA Final Agency Decision pursuant to Title 7 U.S.C. § 2023(a) and § 279.7 of 7 CFR.

13. That the Court should allow a *de novo* trial because this relief is contemplated and mandated by this statute.

COUNT II

(VIOLATION OF DUE PROCESS)

14. That AEW incorporates by reference the allegations contained in paragraphs 1 through 13 of this Complaint.

15. That USDA violated Eslam's due process rights when it failed to allow Eslam/AEW to cross examine and challenge the Government's evidence that is based solely on statics and mere unfounded speculation.

COUNT III

(MISCELLANEOUS REVIEW)

16. That AEW/Eslam incorporates by reference the allegations contained in ph.1-15 of this complaint.

17. That the Final Agency Decision permanently disqualifying AEW/Eslam from the SNAP Program was arbitrary and capricious because based on unreliable statistical evidence and

irresponsible speculation as to the quantity of AEW's inventory and authenticity of its vendor receipts.

WHEREFORE, AEW and Eslam Eltaweeel respectfully request that this Court order the following relief:

1. That the Court Order the United States Department of Agriculture vacate the Final Decision which disqualified AEW/Eslam from participating as a SNAP food vendor and allow this business to continue to accept EBT/SNAP Vouchers.
2. Alternatively, that the Court Order that the United States Department of Agriculture's Final Agency Decision to impose a Civil Money Penalty (CMP) in an amount that is fair and reasonable given the trivial amounts of alleged mishandled transactions.
3. Alternatively, that the Court Order an expedited *de novo* trial on the merits and any other relief this Court may deem proper and just.

Date: September 15, 2014

AEW Market, Inc
Eslam Eltaweeel ,
By its Attorneys,

/s/ Christopher J. Petrarca

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CERTIFICATION

On this 15 day of September 2014 I, the undersigned have caused to be delivered by constable service in the Commonwealth of Rhode Island and first class mail return receipt postage prepaid and e-mail without the Commonwealth of Rhode Island to:

United States Attorney
District of Rhode Island
Fleet Center
50 Kennedy Plaza, 8th Floor
Providence RI 02903
Fax(401) 709 5017

Douglas Perry
Administrative Review Officer
USDA Food and Nutritious Service
Administrative review Branch
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/s/ Christopher J. Petrarca

Christopher J. Petrarca